

DRAFT

**STATE ADVISORY COUNCIL ON THE
EDUCATION OF CHILDREN WITH DISABILITIES**

**January 11 2008
8:30 AM – 3:00 PM
MSD of Washington Township
Indianapolis, Indiana**

ADVISORY COUNCIL MEMBERS PRESENT:

B. Marra, G. Bates, R. Burden, D. Downer, K. Farrell, D. Geeslin, J. Hammond, M. Johnson, R. Kirby, B. Kirk, G. McAloon, K. Mears, J. Swaim, S. Tilden, S. Yoder

ADVISORY COUNCIL MEMBERS NOT PRESENT:

C. Endres, C. H. Hansen, B. Henson, B. Lewis, J. Nally, M. Ramos, C. Shearer, D. Schmidt, J. Swiss, T. Wyatt

INDIANA DEPARTMENT OF EDUCATION STAFF PRESENT:

N. Brahm, K. Bassett S. Knoth, B. Reynolds, T. Rinehart, Dee Kempson, Amanda Snobarger

VISITORS:

Loui Lord Nelson (R.A.I.S.E.), Marilynn Edwards (ISTA), Sarah Guss (Parent), Margaret Jones (Attorney/Parent), Pam Wright (Representing ICASE), Rylin Rodgers (Parent), Kathryn Lee (Indiana Civil Rights Commission), Liz Freeman Floyd (Autism Coalition & Society), Brandon Wozniak (CEEP), Adam Newman (CEEP)

INTERPRETERS

Jessica Dunn
Barbara J. Cain
Karen Ramstein
Felisa Wilson

MEETING

K. Farrell opened the meeting at 9:27 a.m.

Minutes from December 14, 2007

K. Farrell requested amendments to her statements at 511 IAC 7-40-2 Integrated and Focused System of Support. R. Kirby requested amendments to her statements regarding the power-point presentation and her comments at 511 IAC 7-40-5 Conducting an initial educational evaluation.

R. Kirby motioned to accept the minutes with amendments. K. Mears seconded.

Motion carried.

Article 7 Revisions Comments from Public

No comments

Article 7 Revisions

Discussion

RULE 42 DETERMINATION OF SPECIAL EDUCATION SERVICES

511 IAC 7-42-67 Written notice by the public agency and parental consent 511 IAC 7-42-78 Individualized education programs; implementation

B. Marra thanked the Council for attending the meeting today. He indicated that he met with the State Board on Wednesday, January 9, 2008. B. Marra discussed that the State Board has indicated that if a decision is not reached then they would refer back to the Federal language of Rule 42 at 511 IAC 7-42-7 and 511 IAC 7-42-8. He stated that the interpretation at Sec. 8 would be different to various people and would result in an increase of complainable issues. B. Marra continued to explain the Federal language to the Council.

B. Marra and N. Brahm explained the proposed changes.

S. Tilden commented that he felt that at the meeting there is a divergence on the State Board and said that there was reference to following Federal Rule. He got the feeling that in this particular piece that they may prefer to go with Federal Rule if there is not an agreement reached at the Council meeting today.

R. Kirby asked for clarification as to the language that Bob would like to present at Sec. 8 to the State Board and then the SAC would further discuss the other issues of the rule later in the meeting.

D. Geeslin stated that the proposed Sec. 8(a)(4) would make communication between the school and the parent clearer.

G. McAloon concurred with the proposed language.

B. Marra indicated he would like to have a rule that is promulgated through the rule making process not policy of the Division of Special Education. N. Brahm added that the proposed language is not going beyond Federal language.

K. Mears asked for clarification as to the due process rights. B. Marra stated that this proposed language does not take away the right of due process.

R. Burden stated that he is in disagreement with the Federal language and if Council was to vote on the proposed language he would vote for the proposed but is still not in agreement with what it says either. G. Bates asked if what is being proposed is what is currently in Article 7. N. Brahm indicated that (2) is different than what current Article 7 states. G. McAloon said that if we make a motion and we agree on the proposed language and do not have agreement on the rest of the language at least we have the proposal at Sec. 8.

M. Johnson made motion to accept the proposed language at Sec. 8 the new (a).

7-42-8 (a) The services identified in an individualized education program must be provided as soon as the necessary arrangements are completed, but no later than the following:

(1) Ten (10) instructional days after parental consent to the student=s initial individualized education program is received.

(2) Ten (10) instructional days after a public agency provides written notice described in 511 IAC 7-42-7, unless the parent:

(A) initiates mediation under 511 IAC 7-45-2; or

(B) requests a due process hearing under 511 IAC 7-45-3.

(3) For students transitioning from early intervention services to early childhood special education, on the student's third birthday in accordance with 511 IAC 7-43-2.

(4) The initiation date stated in the student's individualized education program in all other circumstances.

Seconded by J. Hammond.

B. Kirk asked for clarification if agreement is not reached on the proposed language for Parental Consent and Change of Placement. B. Marra clarified.

J. Hammond suggested that due to not having a quorum after 12:00 p.m. it would be in the best interest of the Council to vote on the proposed language before further discussion. J. Hammond called for the vote.

Motion was called.

10 Approved; 4 Opposed; 0 Abstained.

Motion defeated.

R. Kirby proposed that discussion take place on the other issues of the rule then come back to the proposed language at Sec. 8(a).

J. Swaim asked for clarification of an additional meeting between the school and the parent. B. Marra referred to the proposed language from the December 14, 2007 meeting. Discussion ensued regarding proposals to the language.

S. Tilden made motion to approve language section by section. R. Kirby asked if change of placement was factored into the language. N. Brahm said no.

S. Tilden made motion to add (A) from the proposed language of December 14, 2007 to the modified language that was proposed by B. Marra this date as 511 IAC 42-8(a)(2)(A) to read

(1) Ten (10) instructional days after parental consent to the student's initial individualized education program is received.

(2) Ten (10) instructional days after a public agency provides written notice described in 511 IAC 7-42-7, unless the parent:

(A) requests a meeting with an official of the public agency who has the authority to facilitate the disagreement between the parent and the public agency;

(B) initiates mediation under 511 IAC 7-45-2; or

(C) requests a due process hearing under 511 IAC 7-45-3.

(3) For students transitioning from early intervention services to early childhood special education, on the student's third birthday in accordance with 511 IAC 7-43-2.

(4) The initiation date stated in the student's individualized education program in all other circumstances.

Seconded by K. Mears.

14 Approved; 0 Opposed; 0 Abstentions.

Motion carried.

K. Farrell encouraged the SAC to refer to the mark-up that is presented this date to avoid confusion.

N. Brahm explained the proposed changes at 511 IAC 7-42-7(f) versus the Federal language.

J. Hammond asked if this was going beyond Federal language. B. Marra said yes and explained. R. Burden asked to see the current language of Article 7 under educational placement. B. Marra explained what the current Article 7 states what the Council has previously approved.

R. Kirby moved to accept a modified version of the current definition of change of placement. Seconded by D. Downer. That language would be:

“Change of placement” means a change in one (1) or more of the following as determined by the case conference committee:

- (1) Identification of a student’s disability, including declassification, and a student’s eligibility for special education and related services.*
- (2) Length, frequency, or duration of services specified in a student’s individualized education program if the changes affect the goals and objectives of the individualized education program unless the change is contained in the current agreed-upon individualized education program.*
- (3) Placement within the continuum as set forth in 511 IAC 7-27-9 unless the change is contained in the current agreed-upon individualized education program.*
- (4) Location, if such change affects the goals and objectives of the individualized education program.*
- (5) Graduation from high school with a regular diploma.*

K. Farrell shared that there are times when some students may need to be moved from a certain location to another for a short period of time to work on diminishing some responses. To do this a change of placement under the current rule may be necessary, and it is difficult and time-consuming to acquire consent. In essence this becomes an added burden and creates more paperwork for teachers. R. Burden indicated that if major changes are made then that is when the written consent is necessary.

M. Johnson gave example that at IPS, schools are closing so the change of placement will take place. The parent may not have a choice to give written consent depending on where the needed program will be offered.

B. Marra further clarified the proposed language.

D. Downer seconded R. Kirby’s motion.

J. Hammond called for the vote.

6 Approved; 8 Opposed; 0 Abstentions.

Motion defeated.

M. Johnson motioned to accept the language at Sec. 7(a) through (f) as presented. Seconded by G. Bates

14 Approved; 0 Opposed; 0 Abstentions.

Motion carried.

S. Yoder motioned to accept the language at Sec. 7(g) through (m) as presented.

14 Approved; 0 Opposed; 0 Abstentions.

Motion carried.

M. Johnson moved to accept the amended language as presented at Sec. 8(3).
Seconded by K. Mears.

14 Approved; 0 Opposed; 0 Abstentions.

Motion carried.

Public Comment

No comment

Meeting adjourned at 12:00 p.m.